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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JAN 30 2007

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Taxpayer A =

IRA X =

Company M =

Amount A =

Amount B =

State M =

Court X =

Dear

This is in response to letters dated March 6, 2006, August 20, 2006, and December 18, 2006, submitted on your behalf by your authorized representative in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("the Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 54, represents that she received a distribution from IRA X totaling Amount A on or about October 7, 2005. Taxpayer A asserts that her failure to accomplish a rollover of Amount B (Amount A minus funds used to pay various expenses) within the 60-day period prescribed by section 408(d)(3) was

due to the affects of a mental impairment and mental illness. Taxpayer A represents that Amount B has not been used for any other purpose.

Taxpayer A was discharged from her governmental job in year 2004. In October, 2005 she withdrew Amount A from IRA X. Taxpayer A's friends and family have submitted affidavits that she was suffering from a mental illness and a mental impairment during the period covering her discharge from employment and her withdrawal of Amount A from IRA X.

On November 18, 2005, Taxpayer A was involuntarily committed to a hospital because of her mental state. On December 7, 2005, pursuant to an order of Court X, State M, Taxpayer A was judged to be a mentally ill person and committed to an institution for treatment. Taxpayer A was discharged from custodial care in February 2006. While hospitalized Taxpayer A represents that she did not have access to her accounts and could not have accomplished a rollover of Amount B into an IRA set up and maintained in her name.

Amount B was contributed to an IRA set up and maintained in Taxpayer A's name with company M on or about March 13, 2006, which date was outside the 60-day rollover period applicable to amount B prescribed by statute.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement, with respect to the distribution of Amount C, contained in section 408(d)(3) of the Code ("the Code").

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to the affects of a mental impairment and mental illness. On November 18, 2005, Taxpayer A was involuntarily committed to a hospital because of her mental state. On December 7, 2005, Taxpayer A was judged to be a mentally ill person as evidenced by an order of Court X, State M filed on that date. Taxpayer A was discharged from

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custodial care in February 2006. While hospitalized Taxpayer A represents that she did not have access to her accounts. Taxpayer A represents that Amount B has not been used for any other purpose and was, in fact, contributed to an IRA on or about March 13, 2006.

Therefore, pursuant to section 408(d)(3)(l) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution to Taxpayer A of Amount B from IRA X. Pursuant to this ruling letter, Taxpayer A's March 13, 2006 contribution of Amount B to an IRA set up and maintained in her name with Company M is deemed to have been timely made and deemed to constitute a rollover contribution as long as all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such IRA contribution.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please

Sincerely yours,



Frances V. Sloan, Manager
Employee Plans Technical Group 3

Enclosures:
Deleted copy of letter ruling
Notice of Intention to Disclose